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10 **BEFORE THE**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
12 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**  
**STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 77107-02

14 LAFAYETTE GERMAN REPAIR INC.,  
d.b.a. LAFAYETTE GERMAN CAR REPAIR  
15 JUAN A. LARA, PRESIDENT  
3328-D Mt. Diablo Boulevard  
16 Lafayette, CA 94549

**ACCUSATION**

17 Automotive Repair Dealer Reg. No. AK 207652

18 Respondent.  
19

20 Complainant alleges:

21 **PARTIES**

22 1. Sherry Mehl ("Complainant") brings this Accusation solely in her official  
23 capacity as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer  
24 Affairs.

25 2. On or about February 1, 2000, the Director of Consumer Affairs  
26 ("Director") issued Automotive Repair Dealer Registration Number AK 207652 to  
27 LAFAYETTE GERMAN REPAIR INC., d.b.a. LAFAYETTE GERMAN CAR REPAIR. JUAN  
28 A. LARA became president on or about July 8, 2003 ("Respondent"). The license was in full

1 force and effect at all times relevant to the charges brought herein and will expire on October 31,  
2 2007, unless renewed.

### 3 JURISDICTION

4 3. Business and Professions Code ("Code") section 9884.7 provides that the  
5 Director may invalidate an automotive repair dealer registration.

6 4. Code section 9884.13 states, in pertinent part, that the expiration of a valid  
7 registration shall not deprive the Director of jurisdiction to proceed with a disciplinary  
8 proceeding against an automotive repair dealer or to render a decision invalidating a registration  
9 temporarily or permanently.

### 10 STATUTORY PROVISIONS

11 5. Code section 9884.7 states, in pertinent part:

12 (a) The director, where the automotive repair dealer cannot show there was  
13 a bona fide error, may refuse to validate, or may invalidate temporarily or  
14 permanently, the registration of an automotive repair dealer for any of the  
15 following acts or omissions related to the conduct of the business of the  
automotive repair dealer, which are done by the automotive repair dealer or any  
automotive technician, employee, partner, officer, or member of the automotive  
repair dealer.

16 (1) Making or authorizing in any manner or by any means whatever any  
17 statement written or oral which is untrue or misleading, and which is known, or  
18 which by the exercise of reasonable care should be known, to be untrue or  
misleading.

18 ...

19 (4) Any other conduct which constitutes fraud.

19 ...

20 6. Code section 22, subdivision (a), states:

21 "Board" as used in any provision of this Code, refers to the board in which  
22 the administration of the provision is vested, and unless otherwise expressly  
23 provided, shall include "bureau," "commission," "committee," "department,"  
"division," "examining committee," "program," and "agency."

24 7. Code section 477, subdivision (b), states, in pertinent part, that a "license"  
25 includes "registration" and "certificate."

### 26 COST RECOVERY

27 8. Code section 125.3 states, in pertinent part, that a Board may request the  
28 administrative law judge to direct a licensee found to have committed a violation or

1 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
2 and enforcement of the case.

3 **UNDERCOVER OPERATION: 2003 VOLKSWAGEN PASSAT**

4 9. On October 11, 2005, an investigator with the California Department of  
5 Insurance Fraud Division (hereinafter "investigator") took a 2003 Volkswagen Passat to the  
6 Bureau of Automotive Repair (hereinafter "BAR") for an inspection and to have specific damage  
7 applied to the vehicle, for purposes of an undercover investigation concerning automobile body  
8 shop-related insurance fraud. A BAR program representative inspected and photographed the  
9 vehicle, before applying moderate damage to the right front fender and right rear quarter  
10 panel/bumper area, consistent with damage from a "sideswipe" accident. A Livermore Police  
11 Officer was used as the undercover officer (herein "operator"). The investigator obtained a  
12 pretext automobile insurance policy from CenCal Insurance Services, filed a fictitious hit and run  
13 claim against the policy, obtained a fictitious claim number, and obtained the name of a fictitious  
14 claims handler from the insurance company.

15 On November 2, 2005, the operator took the vehicle to LAFAYETTE GERMAN  
16 CAR REPAIR and met with Respondent. The operator told Respondent that his vehicle had  
17 preexisting damage to the right rear quarter panel at the time of purchase and that the vehicle had  
18 recently been involved in a hit and run collision and sustained damage to the right front fender.  
19 Respondent encouraged the operator to conceal the preexisting damage from the insurance  
20 company in order to get both areas of damage repaired pursuant to the insurance claim.  
21 Respondent asked the operator for the name of his insurance company, then informed him that  
22 the company won't send an adjuster, and that the operator could tell the insurance company that  
23 he found both sides of the vehicle to be damaged.

24 10. Respondent prepared a repair estimate in support of an insurance claim  
25 and included costs associated with repairs to the right rear quarter panel, knowing that the latter  
26 damage was uninsured and the estimate was false. Respondent provided the estimate to the  
27 operator, along with a business card.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Untrue or Misleading Statements)

3 11. Respondent is subject to disciplinary action pursuant to Code section  
4 9884.7, subdivision (a)(1), in that on or about November 2, 2005, Respondent made or  
5 authorized statements which he knew or in the exercise of reasonable care should have known to  
6 be untrue or misleading, as follows: Respondent unlawfully prepared or made a written  
7 statement, i.e., repair estimate, that was intended to be presented to an insurer or an insurance  
8 claimant in connection with, or in support of, a claim or payment or other benefit pursuant to an  
9 insurance policy, knowing that the statement contained false or misleading information  
10 concerning material facts, to wit: Respondent falsely represented on the repair estimate that the  
11 preexisting damage to the right rear quarter panel was sustained in the hit and run collision, when  
12 in fact, Respondent knew that said damage was preexisting and uninsured.

13 SECOND CAUSE FOR DISCIPLINE

14 (Fraud)

15 12. Respondent's automotive repair dealer registration is subject to  
16 disciplinary action pursuant to Business and Professions Code section 9884.7, subdivision (a)(4),  
17 in that he committed an act which constitutes fraud, in that Respondent committed a fraudulent  
18 act by issuing a false repair estimate as set forth in paragraph 11, above.

19 OTHER MATTERS

20 13. On or about May 18, 2006, in *People v. Juan Anibal Lara*, Case No. 3-  
21 220104-4, in the Superior Court of California, County of Contra Costa, Martinez Division,  
22 Respondent Juan A. Lara pled *nolo contendere* to one count of violation of Penal Code Section  
23 550(b)(1), a misdemeanor. Penal Code Section 550(b)(1) provides that it is unlawful to do, or to  
24 knowingly assist or conspire with any person to...(1) Present or cause to be presented any written  
25 or oral statement as part of, or in support of or opposition to, a claim for payment or other benefit  
26 pursuant to an insurance policy, knowing that the statement contains any false or misleading  
27 information concerning any material fact. The criminal charges were based upon the matters  
28 asserted in paragraphs 9 and 10 above, which were investigated by the California Department of

1 Insurance. Respondent was sentenced to two years court probation, 31 days jail/electronic home  
2 detention, and costs and fees totaling \$3,120.00, including restitution of \$3000.00 to the  
3 California Department of Insurance.

4 **PRAYER**

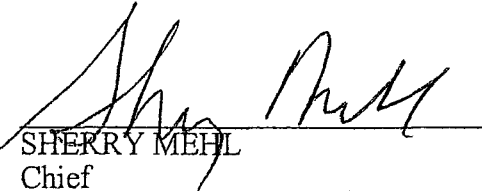
5 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
6 alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

7 1. Temporarily or permanently invalidating Automotive Repair Dealer  
8 Registration Number AK 207652, issued to LAFAYETTE GERMAN REPAIR, INC., JUAN A.  
9 LARA, PRESIDENT;

10 2. Ordering Respondent LAFAYETTE GERMAN REPAIR, INC., JUAN A.  
11 LARA, PRESIDENT to pay the Director of Consumer Affairs the reasonable costs of the  
12 investigation and enforcement of this case, pursuant to Business and Professions Code section  
13 125.3;

14 3. Taking such other and further action as deemed necessary and proper.

15 DATED: 7/2/07

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19 SHERRY MEHL  
20 Chief  
21 Bureau of Automotive Repair  
22 Department of Consumer Affairs  
23 State of California  
24 Complainant  
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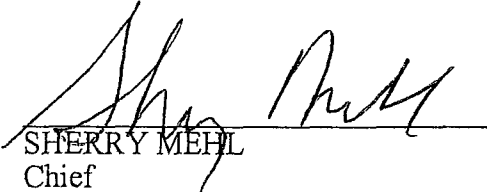
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